

Commodity Credit Corporation, USDA

§ 1412.303

§ 1412.302 Contract payment provisions.

(a) A producer may request 50 percent of each fiscal year's contract payment as an advance payment.

(b) At the option of the producer, for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be paid on December 15 or January 15, as requested by the producer. To receive the advance payment the producers on the farm must be in compliance with all requirements of the contract at the time of the advance payment. For fiscal year 1998 and each subsequent fiscal year, all producers sharing in the contract payment on the farm must no later than 15 days prior to the final date to issue the advance payment, sign the contract designating payment shares and provide supporting documentation as specified in parts 12, 1400, and 1405 of this title, if applicable; and request the advance payment. If all producers on the farm have not signed the contract designating payment shares according to this paragraph, then no producers will be eligible for a payment for that farm for that fiscal year.

(c) A final contract payment shall be made not later than September 30 of each of the fiscal years 1996 through 2002.

(d) If a producer declines to accept, or is determined to be ineligible for all or any part of the producer's share of the production flexibility payment computed for the farm in accordance with the provisions of this section:

(1) The payment or portions thereof shall not become available for any other producer; and

(2) The producer shall refund to CCC any amounts representing payments that exceed the payments determined by CCC to have been earned under the program authorized by this part. Part 1403 of this chapter shall be applicable to all unearned payments.

(e) Notwithstanding any other provision of this section, 1999 fiscal year production flexibility contract payments may be made at any time as may be determined to be permitted by

the Emergency Farm Financial Relief Act, Public Law 105-228.

[61 FR 37575, July 18, 1996, as amended at 62 FR 55152, Oct. 23, 1997; 63 FR 31104, June 8, 1998; 65 FR 7954, Feb. 16, 2000]

§ 1412.303 Sharing of contract payments.

(a) Each eligible producer on a farm shall be given the opportunity to enroll in a contract and receive contract payments determined fair and equitable as agreed to by the producers on the farm and approved by the county committee.

(1) Producers must provide a copy of their written lease to the county committee, and, in the absence of a written lease, must provide to the county committee a complete written description of the terms and conditions of any oral agreement or lease.

(2) A lease will be considered a cash lease if the lease provides for only a guaranteed sum certain cash payment, or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).

(3) If a lease contains provisions that require the payment of rent on the basis of the amount of crop produced or the proceeds derived from the crop, or the interest such producer would have had if the crop had been produced, or combination thereof, such agreement shall be considered to be a share lease.

(4) Beginning on October 1, 1998, for years in which payment shares had not been designated prior to October 23, 1997, a producer's lease, including a lease which provides for the greater of a guaranteed amount or share of the crop or crop proceeds, shall be considered a share lease if the lease provides for both:

(i) A guaranteed amount such as a fixed dollar amount or quantity; and

(ii) A share of the crop proceeds.

(5) If the lease is a cash lease, the landlord is not eligible for a contract payment.

(6) A lease that the county committee determined to be a cash lease under § 1412.303 as contained in the 7 CFR, parts 1200 to 1499, edition revised as of January 1, 1997, will be considered a cash lease for the years in which payment shares were designated if, prior to October 23, 1997:

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(i) The designation of shares was executed; and

(ii) The county committee was provided a copy of the lease applicable for the designated years.

(b) When contract acreage is leased on a share basis, neither the landlord nor the tenant shall receive 100 percent of the contract payment for the farm.

(1) A landowner may receive up to 100 percent of the contract payment if no lease exists with respect to the contract acreage. The leasing of grazing or haying privileges is not considered cash leasing.

(2) [Reserved]

(c) The county committee shall approve a contract for enrollment and approve the division of payment when all of the following apply:

(1) The landowners, tenants and sharecroppers sign the contract and agree to the payment shares shown on the contract;

(2) The county committee determines that the interests of tenants and sharecroppers are being protected; and

(3) That the division of payments is not done in a manner to circumvent the provisions of part 1400 of this chapter.

[61 FR 37575, July 18, 1996, as amended at 62 FR 55152, Oct. 23, 1997; 63 FR 31104, June 8, 1998]

§ 1412.304 Provisions relating to tenants and sharecropper.

(a) Contract payments shall not be made by CCC if:

(1) The landlord or operator has adopted a scheme or device for the purpose of depriving any tenant or sharecropper of the payments to which such person would otherwise be entitled under the program. If any of such conditions occur or are discovered after payments have been made, all or any such part of the payments as the State committee may determine shall be refunded to CCC; or

(2) The landlord terminated a lease in violation of state law as determined by a state court.

(b) Notwithstanding the provisions set forth at §1412.302(c), if the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county

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committee shall make the payment at a later date if all persons eligible to receive a share of the contract payment have executed a contract not later than August 1 of the applicable fiscal year and subsequently agree to the division of contract payment.

[61 FR 37575, July 18, 1996, as amended at 62 FR 55152, Oct. 23, 1997; 63 FR 31104, June 8, 1998]

Subpart D—Contract Violations and Diminution in Payments

§ 1412.401 Contract violations.

(a) Except as provided in paragraph (b) of this section, if a producer subject to a contract violates a requirement of the contract specified in §§1412.206(c), 1412.402, 1412.403, and 1412.405, the Deputy Administrator shall terminate the contract with respect to the producer on each farm in which the producer has an interest. Upon such termination, the producer shall forfeit all rights to receive future contract payments on each farm in which the producer has an interest and shall refund all contract payments received by the producer during the period of the violation, plus interest with respect to the contract payments as determined in accordance with part 1403 of this chapter.

(b) If the county committee determines that a violation is not serious enough to warrant termination of the contract under paragraph (a) of this section, the county committee may require the producer subject to the contract either, or both of the following:

(1) Refund to CCC that part of the contract payments received by the producer during the period of the violation, plus interest determined in accordance with part 1403 of this chapter; and

(2) If there is a violation of §1412.206, accept a reduction in the amount of current and future contract payments that is equal to the sum proportionate to the severity of:

(i) Market value of the fruit and vegetables planted on each contract acreage; and

(ii) The contract payment for each such acre.

(c) Producers who do not plant a crop on contract acreage must protect any